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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * * *

RICHARD ROSENBLUM)	Case No. 2:21-cv-00662-GMN-BNW
)	
Plaintiff,)	
)	
vs.)	
)	
UNITED SERVICES AUTOMOBILE)	DISCOVERY PLAN AND
ASSOCIATION, a reciprocal interinsurance)	SCHEDULING ORDER
exchange, aka USAA CASUALTY)	SUBMITTED IN COMPLIANCE
INSURANCE COMPANY; ROE)	<u>WITH LOCAL RULES 26-1(e)</u>
COMPANIES 1 through 10, inclusive;)	
DOES 11 through 20, inclusive,)	[SPECIAL SCHEDULING
))	REVIEW REQUESTED]
Defendants.)	
)	

Pursuant to the Court's Local Rule 26-1(d), Plaintiff **RICHARD ROSENBLUM**, by and through his counsel of record, **BRIAN K. HARRIS, ESQ.**, and **CHRISTIAN N. GRIFFIN, ESQ.**, of the law firm of **HARRIS & HARRIS**, and Defendant, **UNITED SERVICES AUTOMOBILE ASSOCIATION** (hereinafter USAA), by and through its counsel of record, **PRISCILLA L. O'BRIANT, ESQ.**, of the law firm of **LEWIS BRISBOIS BISGAARD & SMITH**, submit their Stipulated Discovery Plan and Scheduling Order.

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I.

THE 26(f)/LR 26-1 CONFERENCE AND DISCOVERY PLAN

1. **THERE ARE NO CHANGES TO BE MADE IN THE TIMING, FORM, OR REQUIREMENT FOR DISCLOSURES UNDER RULE 26(A).** On July 1, 2021, counsel for the parties conferred as required by Fed. R. Civ. P. 26(f) and LR 26-1(d). Plaintiff and Defendant agreed to have their respective FRCP Productions submitted within 14 days of the Conference.

2. **DISCOVERY WILL BE CONDUCTED ON LIABILITY, DAMAGES, CONTRACTUAL CLAIMS AND DEFENSES, EXTRA-CONTRACTUAL CLAIMS AND DEFENSES AND OTHER TOPICS PERMISSIBLE UNDER RULE 26(A).** The parties agree that discovery need not be conducted in phases focused on any particular issues.

3. There are no concerns, at this juncture, regarding the production of electronically stored discovery.

4. There are no concerns, at this juncture, regarding the claim of privilege or necessity for protective orders.

5. The parties do not anticipate any potential limitations to be imposed on discovery.

6. **ESTIMATED TIME FOR TRIAL:** Five (5) full trial days.

7. The parties agreed that there is no need for orders, at this juncture, to be issued under Rule 26(c) or Rule 16(b) and (c), although the parties reserve the right to seek such orders as discovery continues.

8. **ALTERNATE DISPUTE RESOLUTION:** The parties conferred about the possibility of using alternative dispute-resolution processes and at this time have not come to any agreement regarding the same.

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1 9. **ALTERNATE FORMS OF CASE DISPOSITION:** The parties do not
2 consent to trial by a magistrate judge under 28 U.S.C. §636 (c) and Fed. R. Civ. P. 73 and the
3 use of the Short Trial Program (General Order 2013-01).

4 10. **ELECTRONIC EVIDENCE.** The parties do not intend to present evidence in
5 electronic format to jurors for the purpose of jury deliberations at this time.

6 11. The parties agree that discovery may be served and responded to via email. If
7 discovery materials are too large to serve via email, the parties may send documents via a file-
8 share service (OneDrive, DropBox, etc.) and/or mail a CD or DVD containing the material. The
9 following email addresses are to be used for the aforementioned service:

10 Plaintiff: Brian@harrislawyers.com;
11 Christian@harrislawyers.com;
12 Peggy@harrislawyers.com;
13 Melissa@harrislawyers.com
14 Defendant: Priscilla.OBriant@lewisbrisbois.com;
15 Robert.Freeman@lewisbrisbois.com
16 Jennifer.A.Taylor@lewisbrisbois.com
17 Anne.cordell@lewisbrisbois.com
18 Kristen.freeman@lewisbrisbois.com

19 II.

20 **THE SCHEDULING ORDER**

21 1. USAA filed its Petition for Removal on April 22, 2021. **240 DAYS WILL BE**
22 **NEEDED FOR DISCOVERY.** The parties hereby request an expanded discovery period so
23 that following receipt of an executed authorization for the release of Plaintiff's relevant pre- and
24 post-accident medical treatment records and bills, Defendants are able to obtain Plaintiff's
25 medical records and bills (and in particular pre-accident records), as well as complete a review
26 and evaluation of Plaintiff's claims in connection with this matter. Thereafter, further time is
27 necessary in order for the parties to provide an expert with relevant records for expert review and
28 evaluation, including pre-accident records and regarding prior medical conditions, followed by
potential additional expert review and opinion.

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2. **DISCOVERY CUT OFF DATE:** The discovery cut-off deadline will be Monday, **DECEMBER 20, 2021**¹, which is 240 days after USAA filed its Notice of Removal.

3. **AMENDING THE PLEADINGS AND ADDING PARTIES:** The last date for filing motions to amend the pleadings or add parties shall not be later than ninety (90) days prior to the close of discovery. In this action, the last date for filing motions to amend the pleadings or add parties shall be Tuesday, **SEPTEMBER 21, 2021**.

4. **FED. R. CIV. P. 26(a)(2) DISCLOSURES (EXPERTS):** The last date for disclosure of expert witnesses shall be sixty (60) days before the discovery cut-off date. In this action, the last date for **DISCLOSURE OF EXPERTS** shall be Thursday, **OCTOBER 21, 2021**. Disclosures with respect to **REBUTTAL EXPERTS** shall be made thirty (30) days after the initial disclosures or experts, or by Monday, **NOVEMBER 22, 2021**.²

5. **DISPOSITIVE MOTIONS:** The last date for filing dispositive motions shall not be later than thirty (30) days after the discovery cut-off. In this action, the last date for filing dispositive motions will be Wednesday, **JANUARY 19, 2022**.

6. **PRE-TRIAL ORDER:** The joint pre-trial order shall be filed no later than thirty (30) days after the date set for filing dispositive motions. In this action, the joint pre-trial order shall be filed on or before Friday, **FEBRUARY 18, 2022**. In the event dispositive motions are filed, the date for filing the joint pre-trial order shall be suspended until 30 days after decision of the dispositive motion or further order of the Court.

7. **FED. R. CIV. P. 26(A)(3) DISCLOSURES:** The disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections thereto shall be included in the pre-trial order.

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¹ 240 days from April 22, 2021, is Saturday, December 18, 2021. Discovery Cutoff shall be Monday, December 20, 2021.

² 30 days from October 21, 2021, is Saturday, November 20, 2021. Rebuttal Experts shall be Monday, November 22, 2021

1 8. Any request to extend the dates set forth in this Discovery Plan and Scheduling
2 Order shall be submitted to the Court not later than twenty-one (21) days before the expiration
3 of the subject deadline sought to be extended.

4 **INITIAL DISCLOSURES AND DISCOVERY**

5 **INITIAL DISCLOSURES** shall be made on or before Monday, **JULY 12, 2021**.
6 Objections to Initial Disclosures will be filed within ten days after the submission of the Joint
7 Discovery Plan and Scheduling Order, if any. (Fed. R. Civ. P. 26(f)(3)(A)).

8 The parties anticipate conducting written discovery and depositions on all issues allowed
9 under the Federal Rules of Civil Procedure. (Fed. R. Civ. P. 26(f)(3)(B)).

10 Should it become necessary, the parties hereto will submit a stipulated protective order
11 and confidentiality agreement to be filed with the Court prior to the disclosure of Defendant's
12 materials regarding Plaintiff's contractual and extra-contractual claims against Defendant. (Fed.
13 R. Civ. P. 26(f)(3)(D)).

14 There are currently no issues which parties are aware of regarding discovery of
15 electronically stored information or claims of privilege/protection of trial preparation materials.
16 (Fed. R. Civ. P. 26(f)(3)(C-D)).

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There are currently no changes which should be made in the limitations on discovery imposed by the Federal or Local Rules of practice and no additional orders that this Court should issue at this time. (Fed. R. Civ. P. 26(f)(3)(E-F)).

DATED: JULY 6th, 2021

DATED: JULY 6th, 2021

HARRIS & HARRIS

**LEWIS BRISBOIS BISGAARD &
SMITH**

electronic signature approved

electronic signature approved

By /s/ **CHRISTIAN N. GRIFFIN**

By: /s/ **PRISCILLA L. O'BRIANT**

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Attorneys for Plaintiff

Attorneys for Defendant

ORDER

IT IS SO ORDERED

DATED: 2:18 pm, July 09, 2021



BRENDA WEKSLER

UNITED STATES MAGISTRATE JUDGE

Peggy Fromhart

From: O'Briant, Priscilla <Priscilla.Obriant@lewisbrisbois.com>
Sent: Friday, July 2, 2021 1:17 PM
To: Peggy Fromhart; Brian Harris; Freeman, Robert; Taylor, Jennifer
Cc: Christian Griffin
Subject: RE: Rosenblum v. USAA

Paragraph six – “shall be suspended *until* 30 days after”

For electronic service please add:

Anne.cordell@lewisbrisbois.com
Kristen.freeman@lewisbrisbois.com

You are authorized to submit with my electronic signature. Thank you.

From: Peggy Fromhart <Peggy@harrislawyers.com>
Sent: Friday, July 2, 2021 11:20 AM
To: O'Briant, Priscilla <Priscilla.Obriant@lewisbrisbois.com>; Brian Harris <Brian@harrislawyers.com>; Freeman, Robert <Robert.Freeman@lewisbrisbois.com>; Taylor, Jennifer <Jennifer.A.Taylor@lewisbrisbois.com>
Cc: Christian Griffin <Christian@harrislawyers.com>
Subject: [EXT] RE: Rosenblum v. USAA

Hello Priscilla, I have attached a pdf of the Proposed Discovery Plan & Scheduling Order for your review. Please let me know if you have any changes and/or additions. 😊 Peg

Peggy A. Fromhart
Operations Administrator / Litigation Paralegal

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From: O'Briant, Priscilla <Priscilla.Obriant@lewisbrisbois.com>
Sent: Thursday, May 20, 2021 1:44 PM